REMARKS/ARGUMENTS

Claims 21-40 are pending. The new claims find support as follows: Claim 21 (Claim 1, page 2, lines 10-18), Claims 22-26 (page 2, lines 19-25), Claim 27 (Claims 7-10), Claims 28-32 (page 3, lines 14-16), Claims 33-34 (page 3, lines 17-19), Claims 35-37 (Claims 8-10, page 3, lines 20 *ff.*), Claim 38 (Claim 1, page 1, lines 18 *ff.*), Claim 39 (Claims 1-4 and 7-10, pages 2-3 and page 8, lines 6-9), and Claim 40 (page 1). Accordingly, the Applicants do not believe that any new matter has been introduced.

The Applicants thank Examiners Petrik and Pham for the courteous and helpful interview of July 13, 2006. The Examiners indicated that this was a crowded field and suggested that the Applicants consider additional limitations. It was pointed out that the language of the claims did not require the presence of the plant substance or therapeutic substances due to the lower range limitation of 0% by weight. The Examiners suggested filing an RCE to obtain consideration of claims containing new limitations.

Rejection—35 U.S.C. §103

Claims 1, 3, 4, 6, 7, and 9-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kundel, U.S. Patent No. 5,480,717, in view of Mershon, U.S. Application Publication No. 2003/0008011. This rejection is moot in view of the cancellation of the prior claims. They would not apply to the new claims for the following reasons.

Kundel is directed to a novel process for adhering hydrogels to an adhesive-coated substate, see abstract. This document is not concerned with providing breathable pads which can evaporatively cool the skin or which can release volatile components, such as plant oils.

Independent Claims 21 and 39 both require that the gel be directly applied to the porous substrate, e.g., without an intervening adhesive that could reduce breathability of the

pad. On the other hand, Kundel, see e.g., Figs. 1 and 2, there is an intervening layer of adhesive (18) between the substrate (16) and the hydrogel (2).

While Kundel generically refers to various substrates, e.g., woven or nonwoven fabrics (col. 4, line 65), it does not suggest specifically selecting a porous substrate and indicates that it is generally preferred to select a moisture-impermeable substrate, col. 4, lines 66-67, which refer to a **moisture-impermeable** thermoplastic **film having a polymeric adhesive coating onto it the hydrogel being placed or cast onto the adhesive-coated surface of the substrate**. Kundel, col. 5, line 64, describes a "porous or mesh-like layers about which the hydrogel polymerizes", it does not envisage or suggest that the products be provided in a breathable form. The porous or mesh-like layers described in col. 5 are merely "reinforcing materials" which "may be incorporated" into the hydrogel layer for the purpose of strengthening the laminate. Thus, at best, Kundel merely discloses a genus of substrates, some of which might be porous, but does not suggest selecting a porous substrate, nor suggest using an adhesive on a porous substrate that maintains breathability. Thus, Kundel does not disclose, suggest or provide a reasonable expectation of success for a breathable pad, without adhesive between the hydrogel and substrate, which is capable of evaporative cooling or releasing volatile substances like plant oils.

Mershon does not complement the elements missing from the primary reference and was only cited for its teaching of tetraborate.

On the other hand, the present invention provides a breathable pad. Unlike the prior art products, the gel pad of the invention comprises a **flexible support** which is **porous** (see, for example, line 2 of original Claim 1; lines 11-12 of page 2; line 3 of page 3; etc.) and permits the pad to breath and evaporatively cool the skin (page 4, line 9) or release volatile components (page 4, lines 12-13). The specification, page 4, line 7 *ff.* is reproduced below:

> Due to the warmth of the human skin to which the gel, spread in to the patch, is applied, the water begins to evaporate from the free surface of the gel, so

> causing cooling (cryogenic effect) of that part of the skin on which the gel is applied. **Evaporation of the water causes** molecules of aromatic substances (for example essential oils) which are possibly present in the gel to be drawn outwards with consequent **controlled release of aromatic and/or balsamic vapours**.....As the gel is spread onto a flexible support.....**such porosity determines the rate** (i.e., the duration in time) of **water evaporation, thus enabling control of the rate or duration of transfer of cosmetic and pharmacological substances contained in the gel from the gel to the skin** (emphasis added).

Accordingly, the Applicants respectfully submit that this rejection would not apply to the new claims.

Rejection—35 U.S.C. §103

Claims 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kundel, U.S. Patent No. 5,480,717, in view of Mershon, U.S. Application Publication No. 2003/0008011 and further in view of Caskey, U.S. Patent Application 2004/127826. This rejection is moot in view of the cancellation of Claim 17. It would not apply to the new claims which require a polymer. Caskey teaches medical dressings containing honey [0001]. However, honey is not a polymer containing gel. According to Wikipedia: "**Honey** is a sweet and viscous **fluid** produced by honeybees and other insects from the nectar of flowers." While [0086] refers to "plant extracts" it does not disclose or suggest substances of plant origin containing essential oils or aromatic compounds. Many plant extracts would not contain oils or aromatic compounds and would be useless in pads intended to release these volatile substances to achieve a cooling, analgesic or decongestant effect. Moreover, this publication does not disclose the specific plant substances in Claim 37. Accordingly, the Applicants respectfully submit that this rejection would not apply to the present claims.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly requested.

Respectfully submitted,

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